

ZONING BOARD OF APPEALS  
MINUTES  
JANUARY 12, 2016

The meeting was called to order by Chairperson Rick Garrity at 7:01 p.m. ZBA Members Gregory Constantino, Larry LaVanway, John Micheli, Chip Miller, Thomas Whalls and student Adam Miller were present. ZBA Member James Bourke was excused. Also present were Trustee Liaison Peter Ladesic, Building and Zoning Official Steve Witt and Recording Secretary Barbara Utterback.

Chairperson Garrity welcomed new member Adam Miller to the ZBA.

ZBA Member Whalls moved, seconded by ZBA Member Micheli, to approve the minutes of the December 8, 2015 Zoning Board of Appeals meeting. The motion carried unanimously by voice vote.

On the agenda was a continuation of a public hearing for the property at 608 Newton Avenue.

PUBLIC HEARING (CONTINUATION) - 608 NEWTON AVENUE

A REQUEST FOR APPROVAL OF VARIATIONS FROM THE GLEN ELLYN ZONING CODE AS FOLLOWS: 1. SECTION 10-4-1(H) TO ALLOW TWO CONTIGUOUS SUBSTANDARD LOTS UNDER COMMON OWNERSHIP, WHICH ARE OF SUCH SIZE AS TO CONSTITUTE ONE CONFORMING "ZONING LOT" TO NOT BE CONSIDERED JOINTLY AS BEING A SINGLE PARCEL, LOT OR ZONING LOT TO ALLOW ONE OF THE TWO LOTS TO BE SOLD OFF AT A FUTURE DATE. 2. SECTION 10-4-1(G) TO ALLOW A PORTION OF A "ZONING LOT" TO BE SOLD, CAUSING THE REMAINING PORTION OF THE LOT TO BE 16 FEET LESS IN WIDTH THAN THE REQUIRED MINIMUM WIDTH OF 66 FEET. 3. SECTION 10-4-1(C) TO ALLOW AN ACCESSORY BUILDING OR STRUCTURE TO BE ERECTED ON A ZONING LOT WITHOUT THE PRESENCE OF A PRINCIPAL BUILDING ON THE SAME ZONING LOT TO ALLOW THE CONSTRUCTION OF A DETACHED GARAGE ON THE LOT AFTER THE DEMOLITION OF THE EXISTING HOUSE AND GARAGE WHICH ARE IN DISREPAIR. 4. ANY OTHER ZONING RELIEF NECESSARY TO CONSTRUCT THE PROJECT AS DEPICTED ON THE PLANS PRESENTED OR REVISED AT THE PUBLIC HEARING OR AT A PUBLIC MEETING OF THE VILLAGE BOARD.

(Margaret DeLaRosa and Joseph McGuire, owners of the properties at 608 and 612 Newton Avenue)

Staff Presentation (continued)

Building and Zoning Official Steve Witt stated that this public hearing is a continuation of a previous meeting held on December 8, 2015 and he displayed a location map and two plats of survey of the properties at 608 and 612 Newton Avenue. He stated that Margaret DeLaRosa and Joseph McGuire, the property owners, are requesting approval of the following zoning

variations: 1. Section 10-4-1(H) to allow two contiguous substandard lots under common ownership, which are of such size as to constitute one conforming "zoning lot" to not be considered jointly as being a single parcel, lot or zoning lot to allow one of the two lots to be sold off at a future date. 2. Section 10-4-1(G) to allow a portion of a "zoning lot" to be sold, causing the remaining portion of the lot to be 16 feet less in width than the required minimum width of 66 feet. 3. Section 10-4-1(C) to allow an accessory building or structure to be erected on a zoning lot without the presence of a principal building on the same zoning lot to allow the construction of a detached garage on the lot after the demolition of the existing house and garage which are in disrepair. 4. Any other zoning relief necessary to construct the project as depicted on the plans presented or revised at the public hearing or at a public meeting of the Village Board. Mr. Witt added that the petitioners appeared before the ZBA last month, however, only four ZBA members were present and it appeared that the vote would not be in their favor at that meeting. Mr. Witt stated that the petitioners then elected to return tonight in the event that more ZBA members would be available for consideration of their case.

#### Petitioners' Presentation (continued)

Margaret DeLaRosa and Joseph McGuire, 612 Newton Avenue, Glen Ellyn, Illinois spoke on behalf of their requests. Mr. McGuire stated that they purchased the house next door to theirs at a Sheriff's auction and expected the home to be habitable as it was occupied at that time. He stated that initially they had planned for his father-in-law and mother-in-law to live in the home or to rent the home, however, it is not habitable. He added that their neighbor had lived in the home for 15 months without water and with holes in the ceilings and droppings from animals. He stated that a builder who had been working on their home told them that the home needed to be torn down due to the extensive animal damage. He stated they then discovered they could not build a home on the nonconforming lot they purchased next door to their home. Mr. McGuire stated that other builders told them that the value to return the house to being habitable was greater than the value of the house. He stated that they were informed by a contracting company that if they tore down the house, they could not construct a garage on that lot without a house also being built. Mr. McGuire stated that if their goal is to achieve the garage, the best course of action would be to appear before the Zoning Board of Appeals. He stated that a garage will enhance the neighborhood and added that 15 of the 16 houses on their block are nonconforming. Mr. McGuire also stated that he would like to maintain the salability of 608 Newton without a house but with a garage for his use. He added that the garage would be designed with a future house plan in mind. Ms. DeLaRosa added that any other owner of the 608 lot besides them (who live next door) could develop that lot. Mr. DeLaRosa also stated that the reason a lot next door to another lot owned by the same person(s) cannot be built upon is because the Village desires to have larger lots. He added that he does not see the Village's goal to achieve larger lots happening in Glen Ellyn. Mr. DeLaRosa also stated that his neighbor, a former Village Trustee, stated that he was unaware of this portion of the Village Code which is obscure.

Questions to the Petitioners from the Zoning Board of Appeals (continued)

ZBA Member Whalls asked the petitioners if they thought about keeping the house and garage at 608 Newton Avenue to use with their residence at 612 Newton Avenue and Mr. McGuire stated they had thought about keeping and expanding the existing garage. Mr. McGuire clarified that they bought the house next door to them and then realized they couldn't do what they wanted to that house because of the damage that had been done. Ms. DeLaRosa added that they had also talked about turning the house into a garage with a basement but did not know if that would be worth the effort. Ms. DeLaRosa explained for ZBA Member Adam Miller that if the two lots were combined, the size would be 100 feet x 150 feet. She added that the value of that lot, however, only adds approximately \$40,000 of value to their property but the acquisition value is approximately \$190,000. She also stated that they are not asking for anything other than what the 608 Newton lot has been. Mr. McGuire felt that a house on the subject lot makes sense. Mr. McGuire stated that one of the reasons they bought the subject house in the first place is because they would like to control what goes on that property. ZBA Member Micheli stated that, at the previous ZBA meeting, the petitioners stated that the unique circumstances are that it is unusual for the purchase of a free-standing lot to suddenly be combined when a building is demolished and the practical difficulty is having that apply to the petitioners because they don't have the right to do anything with the lot once the building is gone as the property becomes one unit instead of two units. ZBA Member Micheli also stated that the petitioners' neighborhood consists of narrow lots that are fairly even with similar construction and asked if forcing them to expand their lot would be a particular hardship. Ms. DeLaRosa responded that their hardship is the code which gives them less rights as property owners next door than it would for property not next to them. She added that any other bidder at the auction could have developed the property. Mr. McGuire also stated that 13 of the 16 houses on their block are nonconforming on width and their lot would be the largest lot on their block. ZBA Member Micheli asked the petitioners if they have reconsidered the requests regarding a strip part of the land and to build an accessory building. Mr. McGuire responded that their purpose for being at this meeting is for the garage and that the reason the variation requests are pooled is at the recommendation of staff. He added that if they demolish the house, it would be with the goal of having a garage located on that lot and he would be very annoyed if they were unable to do so. Mr. Witt responded to ZBA Member Micheli that the Village Attorney's opinion is that the two parcels of property would be co-joined when the house on the subject property is demolished.

Persons in Favor of or in Opposition to the Request

Patrick Hoffman, 622 Newton Avenue, Glen Ellyn, Illinois stated he has lived in the subject neighborhood for 30 years and that all of the neighbors are 100% supportive of the petitioners' requests. Mr. Hoffman stated that the house on the subject lot has been empty for 15 years and although the exterior of the house was maintained, the interior was not maintained. He stated that the houses on the subject block are 12 feet away from each other and the neighbors

are supportive of that distance. He stated that the subject house is an empty hole in their neighborhood and the neighbor who lived there did not interact with the other neighbors. He stated they would like to see a home built there with neighbors who are part of the community. Mr. Hoffman stated he is worried about the existing house as it is empty, no maintenance has been done to the interior, the heating, plumbing and wiring are old, there is no water and animals live there. He stated the house is not salvageable. He stated that it makes sense for the petitioners to build a garage on that property and that the location of the garage conforms to where a garage should be placed on an expanded lot and conforms to where a garage should be placed on the 608 property for future use.

Rob Renfro, 346 Hawthorne Street, Glen Ellyn, Illinois stated that he is a neighbor of the petitioners and a former Trustee and was unaware of the ordinance spoken about by Mr. McGuire. He stated for the record that he is in support of the McGuires' petition.

#### Findings of Fact

ZBA Member Constantino stated that this meeting is a continuation from the public hearing held on December 8, 2015. Building and Zoning Official Steve Witt stated that the petitioners sought to continue the meeting from December in order to have more ZBA Members present at the public hearing. ZBA Member Constantino stated that three variations were requested by Margaret DeLaRosa and Joseph McGuire, owners of 608 Newton Avenue. Mr. McGuire described the history of the subject property and stated that the petitioners had acquired the property immediately adjoining their property with the plan to have family live in the structure or to possibly use the site for rental purposes. Mr. McGuire had stated that after the petitioners purchased that property, they discovered it was not habitable and others recommended that the house be demolished as the cost of rehab would exceed the value of the home. ZBA Member Constantino stated that the petitioners have decided that the plan likely will be to demolish the house and construct a new garage for their own use. ZBA Member Constantino stated that the petitioners said that 13 of 15 homes in their neighborhood are nonconforming as most of them have 50-foot widths and less than the minimum required square footage of the area of the lot. ZBA Member Constantino stated that the petitioners learned of the ordinance that requires the combination of the two lots into one zoning lot where there is common ownership and stated there is a question as to when the two-lot combination takes effect—upon ownership or upon demolition of existing improvements. ZBA Member Constantino stated that the petitioners have requested a variation to allow the continued existence of two separate zoning lots to allow for the future sale of nonconforming lots but to presently allow a garage to be constructed without a principal structure for their use. He stated that the petitioners stated that the hardship would be that the existing structure was not habitable and they were not aware of the internal condition of the house until after they acquired it. ZBA Member Constantino stated that Ms. DeLaRosa noted that builders are allowed to acquire 50-foot lots that could be built upon with a variation.

ZBA Member Constantino stated that Patrick Hoffman of 622 Newton Avenue stated that he and all of the neighbors are supportive of the petitioners' plans. ZBA Member Constantino also stated that Rob Renfro of 346 Hawthorne Street stated he was unaware of the existing ordinance regarding one not being allowed to build on a lot purchased next door and he was supportive of the petitioners' requests. ZBA Member LaVanway asked to include that Mr. Patrick Hoffman also stated that the interior of the subject house was dangerous to the neighborhood. ZBA Member Micheli moved, seconded by ZBA member Whalls, to accept the findings of fact. The motion carried unanimously by voice vote.

#### Comments from the Zoning Board of Appeals

ZBA Member LaVanway stated he understands the plight of the petitioners. He also stated that the Zoning Code is clear in this narrow case and results in a very inequitable result for the petitioners. He asked for clarification regarding the issue of precedence where similar zoning variations had been previously approved by the ZBA, especially regarding 151 N. Main Street. He also stated that he would like to recommend approval of their variations, however, did not want to start routinely invalidating the Zoning Code. Chairperson Garrity responded that the ZBA exists to consider granting variations to the Zoning Code. ZBA Member LaVanway stated there is consistency in the neighborhood with tightly packed homes and an aesthetics and consistency aspect in the neighborhood that would be achieved by building a garage on the lot.

ZBA Member Miller stated that he wanted to help the petitioners but did not have a true practical difficulty for the garage other than they don't have one currently. He added that he felt their situation is unique, however, their request should not be approved.

ZBA Member Constantino stated he could recommend approval of one or the other requests, however, not both. He stated that he could recommend that the Village Board grant a variation to allow the continued existence of two separate zoning lots with or without the current structure remaining. He stated that he could see a variation retaining the two separate zoning lots. He added that he does not see a connect with keeping the two separate lots while allowing a new garage to be built upon the now vacant property for use by the 612 property. He added that if the structures are demolished and the property is used for the petitioners' purposes by building a garage there, it becomes one zoning lot. He added that he can see keeping the two lots separate but cannot see allowing the accessory building for use on 612. He stated he does not see a unique particular hardship being requested. Chairperson Garrity commented that this is only the third request like this in his years of being on the ZBA and the other requests were granted.

ZBA Member Micheli stated that he totally agreed with ZBA Member Constantino's comments. He stated that granting Section 10-4-1(H) of the Zoning Code to allow the two distinct lots to be viewed as two distinct lots and to be sold off in time as two distinct lots is supported as the reason for granting the variation. He added that, however, he does not support the ZBA

viewing the lots as two distinct lots and also viewing the property as one lot for the petitioners' use now. He felt that the petitioners should not be forced to suffer the burden of the two lots being one lot. He stated, however, he did not see a reason for granting them two distinct lots but then stating it was one lot especially for them. ZBA Member Micheli stated he would be open to a variation request for a garage shared by the 608 and 612 properties which is not an uncommon garage. He also felt that Sections 10-4-1(G) and (C) should not be granted.

Trustee Liaison Ladesic added that there were three requests of this type in 2011 and possibly the code could be changed to accommodate this type of request.

ZBA Member Whalls did not feel that the zoning situations were the same with 151 N. Main and 799/795 Hill as the existing request since there are no existing permanent structures on either case. He stated that he is aware of several double lots in town and does not feel they ruin the character of the neighborhood. He responded to Chairperson Garrity that he feels a garage on the subject lot would ruin the character of the neighborhood.

ZBA Member Adam Miller stated he agreed with Section 10-4-1(H) of the Zoning Code and did not think it was fair when purchasing your neighbor's property that the two properties become one large lot. He added that he cannot get over a garage sitting on an empty lot which he felt would not look right. He also stated he cannot picture such a large gap between two houses.

Chairperson Garrity stated he sees no harm in the requested variations. He stated the ZBA has been creative in the past finding practical difficulties or hardships for properties. He stated that usually the ZBA tries to protect neighbors from building too close to properties, however, in this case, the property is being requested to be separated. He stated that the garage would be close to the principal structure as opposed to the other side of the lot so it would not look out of place. Chairperson Garrity responded to ZBA Member Miler that a hardship is that the petitioners currently do not have a garage and they would like to have one that will enhance the value of the neighborhood and the property next door if they ever decide to sell.

ZBA Member Constantino moved, seconded by ZBA Member Micheli, to close the public hearing. The motion carried unanimously by voice vote.

#### Motion 1 of 3

ZBA Member Miller moved, seconded by ZBA Member Micheli, that the Zoning Board of Appeals recommend approval of Zoning Code Section 10-4-1(H) to allow two contiguous lots under common ownership which are of such size as to constitute one conforming "zoning lot" to not be considered jointly as being a single parcel, lot or zoning lot to allow one of the two lots to be sold off at a future date due to the unique circumstance that the petitioners have less rights than anyone else that would purchase the subject property and the existing house is in dangerous condition.

The motion carried with six (6) yes votes and zero (0) no votes as follows: ZBA Members Miller, Micheli, Constantino, LaVanway, Whalls and Chairperson Garrity voted yes.

#### Motion 2 of 3

ZBA Member Miller moved, seconded by ZBA Member Whalls, that the Zoning Board of Appeals recommend approval of Zoning Code Section 10-4-1(G) to allow a portion of a “zoning lot” to be sold, causing the remaining portion of the lot to be 16 feet less in width than the required minimum width of 66 feet with the stipulation that the two lots will create two 50-foot wide zoning lots and that the practical difficulties are that the petitioners have less rights than anyone else for a property next to theirs and the existing house is in dangerous condition.

The motion carried with six (6) yes votes and zero (0) no votes as follows: ZBA Members Miller, Whalls, Constantino, LaVanway, Micheli, and Chairperson Garrity voted yes.

#### Motion 3 of 3

ZBA Member Miller moved, seconded by ZBA Member LaVanway, that the Zoning Board of Appeals recommend approval of Zoning Code Section 10-4-1(C) to allow an accessory building or structure to be erected on a zoning lot without the presence of a principal building on the same zoning lot to allow the construction of a detached garage on the lot after the demolition of the existing house and garage which are in disrepair and the circumstances are unique as the property has no garage now on a non-standard lot and the new garage will enhance the subject property and the neighborhood .

The motion did not carry with three (3) yes votes and three (3) no votes as follows: ZBA Members Miller, LaVanway and Chairperson Garrity vote yes; ZBA Members Constantino, Micheli and Whalls voted no.

Mr. McGuire stated that their rear yard does not have a garage because they did not want to tear down a tulip tree that is located where a garage would be. ZBA Member Micheli suggested that the petitioners return with a plan for their property, however, they decided against doing so.

#### Trustee Report

Trustee Liaison Peter Ladesic stated that highlights from last year include a new police station, the Taylor Avenue underpass, a vehicular/pedestrian overpass/underpass in the Central Business District, the McChesney property development and the Giesche property as well as parcels on Roosevelt Road that are slated for development/redevelopment. He added that real sales tax dollars will be increased with this development.

Chairperson Report

Chairperson Garrity stated that ZBA Member Larry LaVanway is moving to Wheaton and thanked him for his service on the ZBA.

Staff Report

Mr. Witt stated that there will be no ZBA meeting in two weeks.

ZBA Member Miller moved, seconded by ZBA Member LaVanway to adjourn the meeting at 8:49 p.m.

Submitted by:

Barbara Utterback  
Recording Secretary

Steve Witt  
Building and Zoning Official